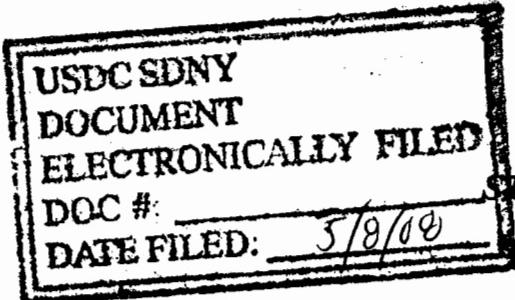
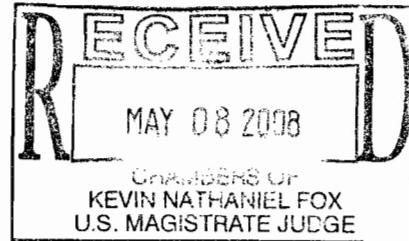


MEMO ENDORSED

THE LAW OFFICES OF

STEVEN L. KESSLER

May 8, 2008

**BY FACSIMILE (212) 788-9776**

Mr. Philip S. Frank
Assistant Corporation Counsel
100 Church Street
New York, N.Y. 10007

Re: *Kapiti v. Kelly et al.*
07 CV 3782 (RMB) (KNF)

Dear Mr. Frank:

Marde Enterprises has requested the assistance of this office in responding to your letter motion to Magistrate Judge Kevin Fox in the referenced proceeding, dated April 29, 2008.

With respect to the documents requested in your subpoena, please be advised that, in connection with the co-signing of Mr. Kapiti's lease with Honda Financial Services, Marde Enterprises was required to submit only the enclosed "Authorization of Limited Liability Company to Lease". No other documents were provided to Honda Financial Services by or regarding Marde Enterprises. The remaining internal corporate documents you request are not properly discoverable, as they have nothing to do with the vehicle in question and are therefore not calculated to lead to the discovery of admissible evidence. Marde Enterprises is a family-owned business which exists for the sole purpose of providing a corporate entity for the Kapiti family's ownership of a residential multi-family dwelling in the Bronx. Nevertheless, to avoid wasting further time and resources on this irrelevant issue, Mr. Kapiti will bring these corporate records to his deposition on May 15, 2008, and make them available to the defendants for review.

With respect to the other speculative issues you raise in your letter motion, there was no "agreement with . . . Marde Enterprises to pay for the [seized] vehicle as a business expense." The sole purpose of the co-signing of the lease by Marde Enterprises

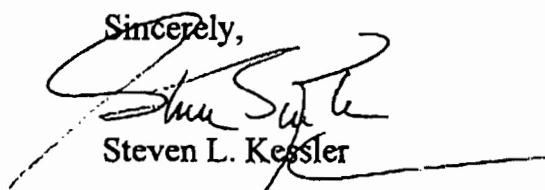
ACC Philip Frank
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- page 2 -

was to provide additional assurances of Mr. Kapiti's creditworthiness to Honda Financial Services. With respect to the remaining issues you raise regarding Mr. Kapiti's use of the vehicle and his relationship with the corporation, you are free to pursue these lines of questioning at his deposition.

Accordingly, please notify Magistrate Judge Fox that the parties have resolved these issues without Court intervention, and inform the Court that you are withdrawing your motion without prejudice.

Sincerely,



Steven L. Kessler

SLK:rmaf

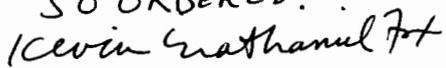
Encl.

cc: The Honorable Kevin N. Fox (*without enclosure*)

5/8/08

It appears that a valid subpoena was issued to Marde Enterprises and no application to quash or modify the subpoena was made timely, as required by Fed. R. Cir. P. 45(c). Therefore, on or before May 15, 2008, Marde Enterprises shall comply with the subpoena.

SO ORDERED:



KEVIN NATHANIEL FOX, USM